

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JASMINE LAWRENCE,)	CASE NO.1:12CV2600
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
vs.)	
)	
MAXIM HEALTHCARE SERVICES,)	OPINION AND ORDER
INC.,)	
)	
Defendant.)	

CHRISTOPHER A. BOYKO, J:

This matter is before the Court on Plaintiff Jasmine Lawrence’s Motion for Conditional Class Certification, Court Supervised Notice to Potential Opt-In Plaintiffs Pursuant to 29 U.S.C. § 216(b), and Expedited Discovery (ECF # 19). The Court denies Plaintiff’s Motion for Conditional Certification as moot.

Plaintiff was employed by Defendant as an in-home health aide and seeks conditional certification for an opt-in class defined as: “All hourly in-home health care workers employed by Maxim Healthcare Services at any time in the past three years.” Plaintiff’s Motion for Conditional Certification describes in-home health care workers as including nurses, therapists, medical social workers and home health aides.

Plaintiff filed her Motion for Conditional Certification on January 18, 2013. On February 8, 2013, Plaintiff filed her First Amended Complaint, which added allegations that Plaintiff was required to work “off the clock.” In addition, the First Amended Complaint states Plaintiff brings the claims on behalf of employees “who are or were employed to provide domestic services to its clients at any time in the last three years, worked over 40 hours per week and were not paid overtime for hours worked over 40 in a work week.” This description of the defined FLSA collective class differs sharply from the defined FLSA collective class sought in the Motion for Conditional Certification which predates the First Amended Complaint.

Therefore, the Court denies as moot Plaintiff’s Motion for Conditional Certification as it contains a description of the FLSA collective class that differs from the defined collective class as described in the First Amended Complaint. Plaintiff may refile its Motion for Conditional Certification based on the operative First Amended Complaint in accordance with the description of the collective class contained therein.

IT IS SO ORDERED.

s/ Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

Dated: April 26, 2013